

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7488

Respondents: Tracy Mitrano for Congress
and Pamela Bleiwas,
as treasurer (the "Committee")¹
Centerway Commerce Building, LLC
("Centerway")

Complaint Receipt Date: August 27, 2018

Response Dates: October 9, 2018 (Centerway)
October 16, 2018 (the Committee)

EPS Rating:

Alleged Statutory 52 U.S.C. §§ 30104(b); 30116(a)(1)(A), (f); 30118(a)
Regulatory Violations: 11 C.F.R. §§ 104.3(a), (b); 110.1(b); 110.9; 114.2(a)

The Complaint alleges that the Committee did not report any disbursements, or any in-kind contributions, for the rental of its campaign office.² The Complaint contends that if the Committee did not pay rent, it likely received either an excessive or prohibited corporate contribution from the building's owner, Centerway.³ The Committee and Centerway Responses both state that Centerway charged a monthly rent of \$750, which represents the office's fair market value.⁴ The Responses also state that both parties agreed that the Committee would not be charged rent for June 2018, and the Committee states that the rental value for June would be treated as a \$750 in-kind contribution.⁵

¹ Tracy Mitrano was a candidate for New York Congressional District 23, and lost in the November 6, 2018 general election with 45.8% of the vote. Kris Merschrod was the Committee's treasurer at the time of the Complaint. Kris Hodges was the Committee's treasurer at the time of the Committee's Response. The Committee's previous name was The Friends of Tracy Mitrano Committee.

² The Complaint asserts that the Committee announced the opening of its campaign office in Corning, NY, on June 1, 2018, but did not disclose any disbursement for rent, nor any in-kind contribution from Centerway for use of the office space, in its Pre-Primary or July Quarterly campaign finance reports. Compl. at 1-3, 5 (August 27, 2018).

³ The Complaint estimates the rental value of the office to be over \$28,000. Compl. at 2, 4, 6.

⁴ Committee Resp. at 1 (October 16, 2018), Centerway Resp. at 1 (October 9, 2018).

⁵ Committee Resp. at 2, Centerway Resp. at 1. The responses both state that Centerway files tax returns as a partnership, with husband and wife George Welch and Elizabeth Welch as its two members, and the Committee states that the in-kind contribution should be attributed equally between George Welch and Elizabeth Welch. Committee Resp. at 2, Centerway Resp. at 1.

The Committee acknowledges that it did not report the in-kind contribution in its original July Quarterly report, but states that it has since filed an amended report showing the contribution, and that rent payments for July, August, and September were reported on its October Quarterly report.⁶

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the fact that the Committee has reported the rent transactions, and the fact that Centerway is not a corporation,⁷ we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁸ We also recommend that the Commission close the file as to all the respondents and send the appropriate letters.

4/18/19

Date

Lisa J. Stevenson
Acting General Counsel

BY: Charles Kitcher by [Signature]
Charles Kitcher
Acting Associate General Counsel

⁶ Committee Resp. at 2. Committee reports reflect these disbursements. See 2018 2nd Amended July Quarterly at 16, 17, filed October 12, 2018, available at <http://docquery.fec.gov/pdf/435/201810129124534435/201810129124534435.pdf>, and 2018 October Quarterly at 971, filed October 15, 2018, available at <http://docquery.fec.gov/pdf/255/201810159125427255/201810159125427255.pdf>. The Committee's 2018 Pre-General, Post-General, and Year-End Reports do not disclose any disbursements for rent.

⁷ Sworn statement submitted by managing member of Centerway, George Welch. Centerway Resp. at 1.

⁸ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).



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